

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

COPIES AND EXTRACTS OF DOCUMENTS

IN THE

ARCHIVES OF THE DEPARTMENT OF STATE

ON THE SUBJECT OF

BRITISH IMPRESSMENTS

FROM

AMERICAN VESSELS.

JANUARY 5, 1813.

Re-printed by order of the House of Representatives.

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1813.

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MEMORIAL

OF THE

PROCEEDINGS OF THE

LEGISLATURE

OF THE STATE OF NEW YORK

IN SENATE

AND IN ASSEMBLY

IN SENATE
JANUARY 18, 1881
IN ASSEMBLY
JANUARY 18, 1881
REPORT OF THE
COMMISSIONERS OF THE
LAND OFFICE
IN RESPONSE TO A
RESOLUTION PASSED
BY THE SENATE
JANUARY 18, 1881
AND BY THE ASSEMBLY
JANUARY 18, 1881
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MESSAGE.

To the Senate of the United States.

I TRANSMIT to the Senate, copies and extracts of documents in the archives of the department of State, falling within the purview of their resolution of the fourth instant, on the subject of British impressments from American vessels. The information, though voluminous, might have been enlarged, with more time for research and preparation. In some instances it might, at the same time, have been abridged, but for the difficulty of separating the matter extraneous to the immediate object of the resolution.

JAMES MADISON.

July 6th, 1812.

DOCUMENTS.

No. 1.

Extract of a letter from Thomas Jefferson, esquire, secretary of state, to Thomas Pinckney, minister plenipotentiary of the United States at London, dated

“DEPARTMENT OF STATE,

July 11, 1792.

“THE peculiar custom in England of impressing seamen on every appearance of war, will occasionally expose our seamen to peculiar oppressions and vexations. It will be expedient that you take proper opportunities, in the mean time, of conferring with the minister on this subject, in order to form some arrangement for the protection of our seamen on those occasions. We entirely reject the mode which was the subject of a conversation between Mr. Morris and him, which was, that our seamen should always carry about them certificates of their citizenship : This is a condition never yet submitted to by any nation ; one with which seamen would never have the precaution to comply : the casualties of their calling would expose them to the constant destruction or loss of this paper evidence, and thus the British government would be armed with *legal authority* to impress the whole of our seamen. The simplest rule will be, that the vessel being American, shall be evidence that the seamen on board her are such. If they apprehend that our vessels might thus become asylums for the fugitives of their own nation from

impress gangs, the number of men to be protected by a vessel may be limited by her tonnage, and one or two officers only be permitted to enter the vessel in order to examine the number on board ; but no press gang should be allowed ever to go on board an American vessel, till after it shall be found that there are more than their stipulated number on board, nor till after the master shall have refused to deliver the supernumeraries (to be named by himself) to the press officer who has come on board for that purpose ; and even then the American consul shall be called in. In order to urge a settlement of this point before a new occasion may arise, it may not be amiss to draw their attention to the peculiar irritation excited on the last occasion, and the difficulty of avoiding our making immediate reprisals on their seamen here. You will be so good as to communicate to me what shall pass on this subject, and it may be made an article of convention to be entered into either there or here.”

Extract of a letter from Thomas Jefferson, esquire, when secretary of state, to Thomas Pinckney, minister plenipotentiary of the United States at London, dated

“October 12, 1792.

“I enclose you a copy of a letter from Messrs. Blow & Melhaddo, merchants of Virginia, complaining of the taking away of their sailors, on the coast of Africa, by the commander of a British armed vessel. So many instances of this kind have happened, that it is quite necessary that their government should explain themselves on the subject, and be led to disavow and punish such conduct. I leave to your discretion to endeavor to obtain this satisfaction by such friendly discussions as may be most likely to produce the de-

sired effect, and secure to our commerce that protection against British violence which it has never experienced from any other nation. No law forbids the seamen of any country to engage, in time of peace, on board a foreign vessel ; no law authorizes such seaman to break his contract, nor the armed vessels of his nation to interpose force for his rescue."

Extract of a letter from Thomas Jefferson, esquire, secretary of state under the presidency of general Washington, to Thomas Pinckney, esquire, American Minister in London, dated

"PHILADELPHIA, November 6, 1792.

"I WROTE you last on the 12th of October, since which I have received yours of August 29, with the papers and pamphlets accompanying it. I enclose you now the copy of a letter from Mr. Pintard, our consul at Madeira, exhibiting another attempt at the practice on which I wrote you in my last, made by captain Hargood, of the British frigate Hyæna, to take seamen from on board an American vessel bound to the East Indies. It is unnecessary to develope to you the inconveniences of this conduct, and the impossibility of letting it go on. I hope you will be able to make the British ministry sensible of the necessity of punishing the past and preventing the future."

Extract from the instructions given by Timothy Pickering, esquire, secretary of state, to Rufus King, esquire, dated

“DEPARTMENT OF STATE,

June 8, 1796.

“AMONG the articles left unadjusted, one of the most interesting nature regards the impressing of American seamen. Mr. Pinckney was instructed on this head, in June, 1792. You will there see that the mode prescribed by the late act of Congress, of *certifying* our seamen, was pointedly reprobated. The long but fruitless attempts which have been made to protect them from British impresses, prove that the subject is in its nature difficult.

“The simplest rule, as remarked to Mr. Pinckney, would be, that the vessel being American, should be evidence that the seamen on board her are such. But it will be an important point gained, if, on the *high seas*, our flag can protect those, of whatever nation, who shall sail under it. And for this, humanity as well as interest powerfully plead. Merchant vessels carry no more hands than their safety renders necessary. To withdraw any of them on the ocean, is to expose both lives and property to destruction. We have a right then to expect that the British government will make no difficulty in acceding to this very interesting provision. And the same motives should operate, with nearly equal force, to procure for us the like exemption in all the British colonies, but especially in the West Indies. In the latter, the consequence of an impress is the detention of the vessel: By the detention, the vessel is injured or destroyed by the worms, and the remnant of the crew exposed to the fatal diseases of the climate. Hence a longer detention ensues; the voyage becomes unprofitable, if not ruinous to the merchant, and humanity deploras the loss of many valuable lives. But there is another

cogent reason for the absolute exemption from impresses in the British colonies. That the practice will be, as it always has been, attended with monstrous abuses: and the supreme power is so remote, the evils become irremediable before redress can even be sought for. To guard against abuses on the part of American citizens, every master of a vessel, on his arrival in any port of the British colonies, may be required to report his crew at the proper office. If afterwards any addition be made to them by *British subjects*, these may be taken away. In the ports of Great Britain and Ireland, the impress of *British subjects* found on board our vessels must doubtless be admitted. But this should be controlled by regulations to prevent insults and injuries, and to administer prompt relief where American citizens (which will assuredly happen) shall be mistaken for British subjects.

“ There are three classes of men, concerning whom there can be no difficulty. 1. Native American citizens. 2. American citizens, wherever born, who were such at the definitive treaty of peace. 3. Foreigners, other than British subjects, sailing in American vessels, and whose persons ought to be sacred, as it respects the British, as those of native citizens. The fourth class consists of British born subjects, but who, or many of whom, may have become citizens subsequent to the treaty of peace, or who hereafter may be admitted to the rights of citizens. It is this class alone about which any pretence of right to impress can be made. With regard to these, it may be attempted to protect them, as well in time of war as of peace, in the following cases: First, when they shall have served in American vessels, public or private, for the same term in which foreigners serving in British vessels would acquire the rights of British subjects, which is understood to be three years; or, secondly, if so much cannot be obtained, when those persons, originally British subjects, shall have resided

five years in the United States, and been formally admitted to the rights of citizens according to our laws.

“ It must often happen that sailors will lose their certificates : provision should therefore be made for the admission of other reasonable proof of their citizenship, such as their own oaths with those of the masters, mates, or other creditable witnesses. The rolls of the crews, or shipping papers, may also be authenticated by the collectors of the customs ; and then they ought to be admitted as of equal validity with the individual certificates.”



Mr. Pickering to Mr. King, dated

DEPARTMENT OF STATE,

September 10, 1796.

I ENCLOSE a letter from Francis S. Taylor, deputy collector of Norfolk, relative to four impressed seamen. It appears to be written with candor, and merits attention. If, as the captain of the *Prevoyante* (Wemyss) says, the *dignity* of the British government will not permit an inquiry on board their ships for American seamen, their doom is fixed for the war : and thus the rights of an independent neutral nation are to be sacrificed to *British dignity* ! Justice requires that such inquiries and examinations should be made, because the liberation of our seamen will otherwise be impossible. For the British government, then, to make professions of respect to the rights of our citizens, and willingness to release them, and yet deny the only means of ascertaining those rights, is an insulting tantalism. If such orders have been given to the British commanders, (and Mr. Liston's communication, in the conversation of which I sent you a copy in my letter of the 31st ult. countenances the idea,) the agency of Colonel Talbot and Mr. Trumbull will

be fruitless, and the sooner we know it the better. But I would fain hope other things; and if the British government have any regard to our rights, any respect for our nation, and place any value on our friendship, they will even facilitate to us the means of relieving our oppressed citizens. The subject of our impressed seamen makes a part of your instructions; but the president now renews his desire that their relief may engage your special attention.

I am, sir, &c.

(Signed) TIMOTHY PICKERING.

Rufus King, esquire, &c. &c.

*Extract of a letter from Mr. Pickering to
Mr. King, dated*

“ DEPARTMENT OF STATE,

“ October 26, 1796.

“ I THINK it is mentioned in your instructions that the British naval officers often impress Swedes, Danes, and other foreigners, from the vessels of the United States : They have even sometimes impressed Frenchmen. If there should be time to make out a copy of a protest lately received, it shall be enclosed, describing the impress of a Dane and a Portuguese. This surely is an abuse easy to correct. They cannot pretend an inability to distinguish these foreigners from their own subjects : and they may with as much reason rob American vessels of the property or merchandise of Swedes, Danes and Portuguese, as seize and detain in their service the subjects of those nations found on board American vessels. The president is extremely anxious to have this business of impresses placed on a reasonable footing.”

Extract of a letter from Mr. Pickering, secretary of state, to Silas Talbot, esquire.

“DEPARTMENT OF STATE,

August 15, 1797.

“ I WAS pleased with your success in obtaining relief for so many American seamen, as mentioned in your several letters : but your last, containing the orders of admiral Parker to his captains no longer to obey the writs of habeas corpus, gave me much uneasiness. Yesterday I gave those letters to the British minister, Mr. Liston ; and wish he may do something to afford you a prospect of further success : but I fear, notwithstanding he is perfectly well disposed to administer relief, that his remonstrances or requests will have too little effect. I shall transmit copies of these letters to Mr. King, our minister in London, to lay before the British ministry. If any naval officers shall have committed such an outrage on any American seamen as to *bring them to the gangway*, as you mention, or to inflict any kind of punishment on them, especially for seeking opportunities to inform you of their situation, for the purpose of obtaining the just relief to which they are entitled, pray endeavor to get proper proofs of the fact, that I may make it the subject of a special representation to the British government.”

Extract of a letter to Rufus King, esquire, from the secretary of state, dated

“TRENTON, October 3, 1797.

“LORD Grenville’s observations on the act of congress for the relief and protection of American seamen, present difficulties which demand consideration at the ensuing session. But your reasoning, in

your letter to his lordship of the 30th of last November, is conclusive against the British pretences to retain real American seamen who are married in their dominions, or who have voluntarily entered on board British vessels. It behoves the honor and faith of the British government to adhere to their principle on natural allegiance wholly, or to renounce it wholly : and an answer on this point would have become his lordship's candor.

“ I consider colonel Talbot's agency in the West Indies to be no longer very important. The rigid conduct of admiral sir Hyde Parker, (who from the beginning has thrown obstacles in the way) leaves but little room to get our seamen released. The opposition of the officers in general, induced col. Talbot to take out writs of habeas corpus at Jamaica, by which, directly, or in their consequences, he obtained the discharge of near fifty seamen ; but admiral Parker has some time past forbidden his officers to pay any obedience to such writs ; and colonel Talbot informs me that some of our seamen have been punished for attempting to send letters to him to inform of their situation. Mr. Liston has assured me that the British officers have orders not to impress any American seamen, and of course not to retain against their will any already impressed : but if they persist in obstructing every channel of information and proof of their citizenship, such orders are and will continue deceptive.”

The Secretary of State to the President of the United States.

DEPARTMENT OF STATE,

February 20, 1800.

THE secretary has the honor to lay before the president—

1. Mr. Liston's note of February 2d, 1800, with papers referred to relative to the rescue of three American vessels from the hands of the British captors, and for the restoration of which he is instructed by his government to apply.

2. Mr. Liston's note of the 4th February, together with his project of a treaty for the reciprocal delivery of deserters; which appears to the secretary utterly inadmissible, unless it would put an end to impressments, which Mr. Liston seemed to imagine, while the 7th paragraph of his project expressly recognizes the right of impressing British subjects, and consequently American citizens, as at present.

(Signed)

TIMOTHY PICKERING.

R. LISTON presents his respects to colonel Pickering, secretary of state.

I have, from time to time, taken the liberty of making verbal complaints to you, sir, respecting the practice lately become frequent among the masters and supercargoes of American merchantmen, of rescuing by force or by fraud such vessels as have been detained by the commands of his majesty's ships of war with a view to future trial in a court of admiralty.

I, in particular, mentioned the cases stated at large in the inclosed papers.

The first is that of the brigantine Experience, detained on the 25th May, by captain Poyntz, of his majesty's ship Solebay. She came from Campeachy, was said to be bound for Charleston, (S. C.) and was loaded with logwood. The cargo was suspected to be enemies' property; and she was afterwards found to have a complete set of Spanish papers.

The American master, Hewitt, and Howe, the supercargo, with the consent of the British seamen who were put on board to navigate her, overpowered the

prize master, (Mr. Bryce) kept him prisoner several days, and at last, by threats and violence, forced him to leave the vessel and to go on board of a schooner bound for New Providence.

The second is the case of the ship *Lucy*, commanded by a Mr. James Conolly, a native of Ireland, calling himself a citizen of the United States, which was stopt on the 3d of June, by captain Ferrier, of his majesty's ship *York*. This vessel had smuggled one hundred and eighty-seven new negroes from Jamaica. The captain found means to forge a clearance from the custom house of Kingston, and afterwards loaded goods at the Havannah, partly the property of enemies, and partly belonging to a Mr. Courtauld, a British subject; who recently held a place in the customs under his majesty's government.

A lieutenant, a quarter-master and ten men, were put on board the *Lucy* to conduct her to Jamaica; and with a view to accommodate the master and the other persons who were found in the vessel, Mr. Conolly, Mr. Courtauld, his nephew, two other passengers, with servants and seamen, amounting to twelve in all, were permitted by captain Ferrier to remain on board on their parole. They however secretly armed themselves, and in the night surprised the watch, confined the prize master and the British seamen, and carried the ship to Charleston.

The third case is that of the *Fair Columbian*, Edward Casey, master, detained by his majesty's ship the *Hind*, in company with the sloop of war the *Swan*. She had come from the Havannah; had no sea brief or register on board; was commanded by a person who had deserted about nine months before from his majesty's ship *Polyphemus*; and according to the concurrent testimony of eight or nine masters of American vessels which had sailed in company with her from the Havannah, was loaded with Spanish property.

These circumstances affording a sufficient cause of suspicion, she was ordered for Bermuda ; but the master, by the use of bribery and intoxication, succeeded in inducing the prize master and crew to permit her to be carried into the port of Baltimore.

It is unnecessary to employ arguments to prove that these irregularities are an infringement of the law of nations. The tenor of the instructions given by the president to the vessels of war of the United States, involves an acknowledgment of the right of the king's ships to search and detain such 'American vessels' as are suspected of being loaded with enemies' property, or with contraband of war destined for an enemy's port. It remains that I should add, that I have now received express orders from his majesty to claim as an act of justice (which is expected from the candor of the federal government, and the good understanding which subsists between the two countries) that the vessels, of which the masters and supercargoes have thus illegally repossessed themselves, be delivered up to me, together with the British seamen and the deserters who have assisted in rescuing them out of the hands of the prize masters, that they may be sent to some one of his majesty's colonies, to be there dealt with according to law.

Philadelphia, February 2, 1800.

R. LISTON presents his respects to colonel Pickering, secretary of state.

I have the honor, sir, of enclosing a duplicate of my letter of the 18th December, to vice admiral sir Hyde Parker, soliciting the discharge of certain American seamen said to be detained on board of his squadron on the Jamaica station ; and I flatter myself it will have the desired effect, although it be not accompanied by copies of the documents attesting

their citizenship. I cannot, however, omit this opportunity of calling to your remembrance what I have frequently stated in conversation, that while the papers called *protections* are granted with a fraudulent intention, or without a proper examination of facts, by inferior magistrates or notaries public in the United States, and while they can easily be procured by such natural born subjects of his majesty as choose to abandon his service in the hour of danger, it is not to be expected that any regard will be paid to them by the commanders of British ships of war. And I beg leave once more to urge you to take into consideration—as the only means of drying up every source of complaint and irritation upon this head—the proposal I had the honor of making two years ago (in the name of his majesty's government) for the reciprocal restitution of deserters.

Philadelphia, February 4, 1800.

1. WHEREAS, by the twenty-eighth article of the treaty of amity, commerce and navigation, concluded at London on the nineteenth day of November, 1794, between his Britannic majesty and the United States, it was agreed, in order to facilitate intercourse, and obviate difficulties, that other articles should be proposed and added to the treaty above mentioned, which articles, from want of time and other circumstances, could not then be perfected, and that the said parties should from time to time regularly treat of and concerning such articles, and should sincerely endeavor so to form them as that they might conduce to mutual convenience and tend to promote mutual satisfaction and friendship; and that the said articles, after having been duly ratified, should be added to and make a part of the above mentioned treaty :

2. And whereas, it will greatly conduce to the maintenance and improvement of that friendship and harmony now subsisting between the contracting parties, that measures should be taken by mutual consent for the giving up of deserters on each side :

3. Therefore, the parties have with this view appointed their respective ministers to meet, negotiate, and conclude on this subject ; that is to say, his Britannic majesty, Robert Liston, esquire, his majesty's envoy extraordinary and minister plenipotentiary to the United States of America ; and the United States, ———— :

4. Who, having communicated to each other their respective full powers, have agreed on the following article to be added to the above mentioned treaty and to form a part thereof :

ADDITIONAL ARTICLE.

5. It is agreed that no refuge or protection shall be afforded, in the territories or vessels of either of the contracting parties, to the captains, officers, mariners, sailors or other persons, being part of the crews of the vessels of the respective nations, who shall have deserted from the said vessels ; but that on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made by an exhibition of the register of the vessel or ship's roll, or authenticated copies of the same, or by other satisfactory evidence, that the deserters so demanded were actually part of the crew of the vessels in question.

6. With a view to the more effectual execution of this article, the consuls and vice-consuls of his Britannic majesty and of the United States may cause to be

arrested all persons who have deserted from the vessels of the respective nations as aforesaid, in order to send them back to the commanders of the said vessels, or to remove them out of the country. For which purpose the said consuls and vice consuls shall apply to the courts, judges and officers competent, and shall demand the said deserters in writing, proving as aforesaid that they were part of the said crews, and on this demand so proved the delivery shall not be refused; and there shall be given all aid and assistance to the said consuls and vice consuls for the search, seizure and arrest of the said deserters, who shall even be detained and kept in the prisons of the country, at their request and expense, until they shall have found an opportunity of sending them back or removing them as aforesaid. But if they be not so sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

7. It is however understood that this stipulation is not to extend to authorize either of the parties to demand the delivery of any sailors, subjects or citizens, belonging to the other party, who have been employed on board the vessels of either of the respective nations, and who have in time of war or threatened hostility voluntarily entered into the service of their own sovereign or nation, or have been compelled to enter therein, according to the laws and practice prevailing in the two countries respectively.

8. It is further agreed, that no refuge or protection shall be afforded by either of the contracting parties to any soldiers who may desert from the military service of the other, but that, on the contrary, the most effectual measures shall be taken, in like manner as with respect to sailors, to apprehend any such soldiers, and to deliver them to the commanding officers of the military posts, forts or garrisons, from which they have deserted, or to the consuls or vice-consuls on

either side, or to such other person as may be duly authorized to demand their restitution.

9. It is however understood that no stipulation in this additional article shall be construed to empower the civil or military officers of either of the contracting parties forcibly to enter into the public ships of war, or into the forts, garrisons or posts of the other party, or to use violence to the persons of the land or sea officers of the respective nations with a view to compel the delivery of such persons as may have deserted from the naval or military service of either party as aforesaid.



The Secretary of State to Mr. Liston.

DEPARTMENT OF STATE,

Philadelphia, May 3, 1800.

SIR,

IN reference to your letter of the 2d February last, I soon after took occasion to intimate to you what appeared to be the president's way of thinking on the subject. I have now the honor to state to you, that while, by the law of nations, the right of a belligerent power to capture and detain the merchant vessels of neutrals, on just suspicion of having on board enemy's property, or of carrying to such enemy any of the articles which are contraband of war, is unquestionable, no precedent is recollected, nor does any reason occur which should require the neutral to exert its power in aid of the right of the belligerent nation in such captures and detentions. It is conceived that after warning its citizens or subjects of the legal consequences of carrying enemy's property or contraband goods, nothing can be demanded of the sovereign of the neutral nation, but to remain passive. If, however, in the present case, the British captors of the brigantine Ex-

perience, Hewit, master, the ship Lucy, James Conolly, master, and the brigantine Fair Columbia, Edward Casey, master, have any right to the possession of those American vessels, or their cargoes, in consequence of their capture and detention, but which you state to have been rescued by their masters from the captors, and carried into ports of the United States, the question is of a nature cognizable before the tribunals of justice, which are opened to hear the captors' complaints, and the proper officer will execute their decrees.

You suggest that these rescues are an infringement of the law of nations. Permit me to assure you that any arguments which you shall offer to that point will receive a just attention.

With regard to the British seamen and deserters who have assisted in the rescues, with great truth I am authorized to assure you, that the government have no desire to retain them: but besides that the many months elapsed since those events, and the consequent dispersion of the men, would probably render their delivery impracticable, it is not known to be authorized by any law. This has brought into view your project of stipulations for the mutual delivery of deserters, whether seamen or soldiers: and I have now the honor to enclose a counter project, by which you will see the objections which have occurred to your propositions. The president has been pleased to direct and empower me to negotiate with you on this subject, and it will afford him great pleasure if we can make a satisfactory arrangement.

I have the honor to be, &c. &c.

TIMOTHY PICKERING.

Robert Liston, Esq.

1. IT is agreed that no refuge or protection shall be afforded in the territories or vessels of either of the contracting parties, to the officers, mariners, or other persons, being part of the crews of the vessels of the respective nations, who shall desert from the same ; but that on the contrary, all such deserters shall be delivered up on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf : *Provided*, That proof be made by exhibition of the shipping paper or contract, or authenticated copies thereof, or by other satisfactory evidence, that the deserters so demanded were actually part of the crews of the vessels in question.

2. With a view to the more effectual execution of this article, the commanders of the vessels from which such desertions shall take place, and the consuls and vice consuls of his Britannic majesty and of the United States, respectively, may cause to be arrested all persons who shall desert from the vessels of the respective nations as aforesaid. And for this purpose, the said commanders, consuls, and vice consuls, shall apply to the courts, judges, and officers competent, and shall demand the said deserters in writing, and adduce proof of their desertion as aforesaid ; and on this demand and satisfactory proof, the delivery shall be made. And there shall be given all necessary aid to the said commanders, consuls and vice-consuls, for the search, seizure, and arrest of the said deserters, who, if it be requested, shall be detained and kept in prison, at the expense of those who demand them as aforesaid, until they can be put on board their own or other vessels of their nation, or be otherwise sent back to their own country : *Provided*, That if this be not done within three months from the day of their arrest, such deserters shall be set at liberty, and not be again arrested for the same cause.

3. It is further agreed, that no refuge or protection shall be afforded by either of the contracting parties to any non-commissioned officer or soldier who may desert from the military service of the other ; but that on the contrary, the most effectual measures shall be taken, in like manner as with respect to sailors, to apprehend any such non-commissioned officers and soldiers, and to deliver them to the commanding officers of the military posts, forts or garrisons, from which they have deserted, or to the consuls or vice-consuls on either side, or to such other person as may be duly authorized to demand their restitution.

4. It is however understood that nothing in these stipulations shall be construed to empower the civil, military, or naval officers of either of the contracting parties forcibly to enter into the territory, forts, posts or vessels of the other party, or to use violence to the persons of the commanders or other officers of the forts, posts, or vessels of the other party, with a view to compel the delivery of such persons as shall desert as aforesaid.

The Secretary of the Treasury to the President.

THE secretary of the treasury respectfully submits the following observations, in obedience to the direction of the president of the United States.

The project of a treaty proposed by the ministry of his Britannic majesty for the reciprocal delivery of deserters from the land and naval service, does not sufficiently provide against the impressment of American seamen, and is therefore deemed inadmissible. The ideas of the secretary of the treasury on this subject are stated in the counter project hereto subjoined, and will be found to be essentially the same as those of the secretary of state.

The secretary of the treasury fully concurs in opinion with the secretary of state, respecting the reply proper to be given to the notes of Mr. Liston, dated 2d and 4th February last, demanding the restitution of several American vessels captured by British cruizers and rescued by the crews of said vessels.

All which is respectfully submitted, by

(Signed) OLIVER WOLCOTT.

Secretary of the Treasury.

Treasury Department,
April 14, 1800.



Additional articles proposed to be added to the treaty of amity, commerce and navigation, concluded at London, on the 19th day of November, 1794, and to form a part of said treaty.

1. IT is agreed that no refuge or protection shall be afforded to the officers, mariners or other persons, being part of the crews of the vessels of the respective nations, who shall hereafter desert from the same; but that on the contrary, all such deserters shall be delivered up on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf: *Provided*, That proof be made *within two years after the time of desertion*, by an exhibition of the shipping paper, or contract, or authenticated copies thereof, or by other satisfactory evidence, that the deserters so demanded were actually part of the crews of the vessels in question.

2. With a view to the more effectual execution of the foregoing article, the commanders of the vessels

from which such desertions shall take place, and the consuls and vice-consuls of his Britannic majesty and the United States, respectively, may cause to be arrested all persons who shall desert from the vessels of the respective nations as aforesaid; and for this purpose the said commanders, consuls, and vice-consuls, shall apply to the courts, judges, and officers competent, and shall demand the said deserters in writing, and adduce proofs of their desertion as aforesaid; and on such demand and satisfactory proof as aforesaid, the delivery shall be made. And there shall be given all aid and assistance to the said consuls and vice consuls for the search, seizure and arrest of the said deserters, who, if it be requested, shall be kept and detained in the prisons of the country, at the expense of those who demand them as aforesaid, until they can be put on board their own or other vessels of their nation, or be otherwise sent back to their own country: *Provided*, That if this be not done within three months from the day of their arrest, such deserters shall be set at liberty, and not be again arrested for the same cause.

3. It is further agreed that no refuge or protection shall be afforded by either of the contracting parties, to any person who shall hereafter desert from the military land service of the other; but that, on the contrary, the most effectual measures shall be taken, in like manner and on like conditions as with respect to sailors, to apprehend any such deserters from the land service, and to deliver them to the commanding officers of the military posts, forts or garrisons, from which they shall have deserted, or to the consuls or vice consuls on either side, or to such other persons as may be duly authorized to demand their restitution.

4. It is however understood that nothing in the foregoing stipulations shall be construed to empower the civil or any other officers, of either party, forcibly to enter the forts, posts, or any other place within or

under the jurisdiction of the other party ; nor to empower the naval commanders or other officers, of either party, forcibly to enter any public or private vessel of the other party, on the high seas, with a view to compel the delivery of any person whatever : on the contrary, it is expressly declared to be the understanding of the contracting parties, that the mutual restitutions of persons claimed as deserters shall only be made by the free and voluntary consent of the military officers employed in the land service, or the commanders of the public or private ships or vessels of the two parties, or in pursuance of the decisions of the courts, judges, or other competent civil officers of the two nations, in all cases arising within their respective jurisdictions.

(Signed)

OLIVER WOLCOTT.

April 14, 1800.



THE secretary of war respectfully submits the following observations, in obedience to the direction of the president of the United States.

The secretary very much doubts the soundness of the principle upon which a refusal to deliver up merchant vessels captured by a belligerent power, is founded. It appears to the secretary, considering the question upon general ground, that merchant vessels belonging to a neutral nation, seized by a belligerent power on the high sea, for violating the laws of neutrality, cannot, agreeably to the law of nations, be rightfully retaken by a vessel of the neutral power, nor, if retaken and brought into a port of the neutral nation, rightfully withheld by that nation from the captors. It results from this principle, that a vessel or its cargo being prize or no prize cannot be rightfully determined in other tribunals than those of the nation exercising the right of capture, the right to try in the ap-

propriate courts of the country of the captors following the right to capture.

It may be asked, is the right which a belligerent power acquires to the property of its enemy seized in a neutral vessel full and perfect? To this it may be answered, that the right thus acquired is full and perfect as relative to exempting it from capture by any neutral vessel. For, if the merchant vessel which contains the property, may, after its being seized or possessed by the belligerent power, use *force* to recover it, so may every other merchant vessel belonging to the neutral nation. Further, if the crews of the neutral vessels may re-capture, it would seem that our vessels of war could also recapture, the contrary whereof is to be collected from the statute which authorizes recaptures of our vessels taken by the French. But the state of neutrality does not permit a neutral power to espouse, in any manner whatever, either side, or to prefer one to the other belligerent party. It is the indispensable duty of neutrals "Bel-lo se non interponant." To recapture the property of either from the other, is a clear meddling in the war, and direct violation of every principle of neutrality.

If the property in a neutral vessel was *enemy's property* or contraband of war, the belligerent vessel, having once *made prize of it*, has a clear right to it, of which the crew of the neutral vessel cannot divest her by recapture. To the secretary it appears a sound position, that neutral nations ought to regard the parties at war as *lawful proprietors* of all that they take from each other; consequently, it cannot be right for the citizens of a neutral nation to interfere to rescue from one of the belligerent powers property which he had taken belonging to the other. A neutral vessel loads with enemy goods at a known risk, that of their being subject to capture, and under the obligation only to use all due endeavors to avoid an enemy or capture; here the obligation of the neutral ends, for she is not permitted, if taken, to recover the goods by

recapture, the nation only to whose citizens or subjects they belonged (or the parties at war with the captors) possessing that right.

By the law of nations, a neutral vessel met at sea is liable to be seized by a vessel of war, as the case may be, of either of the belligerent powers. This law gives the additional right, if the belligerent vessel is not satisfied with his search, *to carry the neutral vessel into the country of the captors*, there to be examined, tried and condemned (if she has violated the neutrality) in its courts, established for the inquiry into the subject, and to compel by force the neutral to submit to search, and also to be carried into the country of the captors.

If such ships shall be attacked in order to an examination, and shall refuse, they may be assaulted like a house supposed to have thieves or pirates in it, refuses to yield up their persons, may be broken up by the officer, and the persons resisters may be slain.—Malloy de Jure Mar. et Nav. L. I. C. 3, S. XIII.

It also appears to the secretary, that if a neutral vessel found at sea refuses, and *resists by force* to be searched, she, for such conduct, is liable to be condemned as lawful prize. If the law of nations gives a *right to search*, it cannot allow a *right to resist a search by force*. The two rights cannot exist. They are perfectly inconsistent. If the *first* is lawful the *latter* must be unlawful, consequently liable to some punishment, or the right would be nugatory. If the law of nations gives also a right to carry the neutral vessel into the country of the captors' courts, this right also cannot be resisted or opposed by force without violating the law. It would seem to the secretary, that the persons who resist the search by force, or resist or prevent by force the neutral vessel being carried into the captors' country for trial, must by such conduct be guilty of a breach of the law of nations, and if so they must be liable to some punishment, and if the nation to which they belong does not

punish them, on application to that effect, it thereby becomes a party to the wrong. The secretary cannot think that either the right of search, or of carrying the neutral into the country of the captors, is founded on *superiority of force*, but on the law of nations. This opinion the secretary rests upon Vattel, L. 3, C. 7, S. 114; Marten's law of nations, N. 323; Lee on Captures; the report on the Silesia Loan, &c.

The secretary, however, cannot venture to disapprove of the answer proposed to be given by the secretary of state. He does not know of any precedent of a neutral nation exerting its power in any similar case of recapture in aid of the right of the belligerent power, but, unquestionably there is reason so to do, if the idea he has presented of the law of nations is accurate. He thinks it probable also, without pretending to be positive, that instances of recapture like the present are few.

In some future time America may stand in relation to other powers as Great Britain stands at this time, and may wish to make the same claim that she does now. The secretary *greatly* doubts, but with great deference, whether the cases in question, of recaptures, are cognizable before our courts of justice; the subject seems rather to belong to the executive. Peculiar caution may be proper, for fear at some future period our proceeding may be urged against us to our detriment. If it appears necessary to re-consider the subject, the secretary would beg leave to suggest the propriety of adding, that as there is no provision by treaty or apposite law of the United States on the subject, it might be advisable to make some stipulation by treaty.

The secretary is inclined to believe, that, if any, there is not sufficient remedy for the delivery of deserters from British vessels. He has understood that some of our courts had determined, that the law of congress concerning seamen relates to American seamen only. The claim for British seamen who have

or may desert is just and ought to be reciprocal. The secretary thinks the project of Mr. Liston may be substantially accepted, except the seventh article, which seems to provide that the United States shall not demand the delivery of any sailors, although their citizens, if they have been employed on board British vessels, and who have, in time of *war* or *threatened hostilities*, voluntarily entered into the British service, or have been compelled to enter therein, according to the law and practice prevailing in Great Britain. This article is very inaccurately expressed; for it says, "employed or entered into the service of their own sovereign or nation, or compelled to enter therein," &c. If this article means what it is apprehended it does, it is wholly inadmissible. It establishes a principle reprobated by this country. The counter project of the secretary of state, in substance, meets the secretary's approbation; but it is submitted, whether the adoption of part of the draught by the secretary of the treasury will not improve it.

All which is respectfully submitted.

(Signed)

JAMES M'HENRY.

War Department, April 18, 1800.

Mr. Stoddert, secretary of the navy, to the president.

The secretary of the navy, in obedience to the order of the president, respectfully submits the following observations, on the matters of reference to the heads of departments.

The proposed letter of the secretary of state, in answer to Mr. Liston's notes of the 2d and 4th February, demanding the restitution of American vessels captured by British ships and rescued by their own

crews, appears to the secretary of the navy, entirely proper. He believes the demand is neither sanctioned by precedent, nor the law of nations. Should it be otherwise, Mr. Liston, as invited by the secretary of state, will shew it.

Mr. Liston's project of an article on the subject of deserters, secures to his nation every thing it could require, but affords no security to the United States in a point of equal interest with them, that their merchant vessels will not be interrupted on the high seas, in order to impress from them their crews, under pretence of being deserters.

It is certainly just that the United States should afford to Great Britain all the reasonable security they have a right to expect from a friendly nation, against the loss of their seamen—a loss of all others the most serious to a nation depending on maritime strength for its power—perhaps for its safety. But it is equally just that the United States should be secured against the impressment of their seamen on the high seas, and the interruption of their merchant vessels. The project of the secretary of the treasury meets the full approbation of the secretary of the navy: It seems to comprehend every thing that ought to be required on either side. But it is so desirable to have a right understanding on a subject so likely to produce ill blood, that rather than not agree, the secretary of the navy thinks the word *hereafter*, if positively insisted on, may be struck out of that project—and submits, whether, for the sake of accommodation, the limitation of time in which deserters may be claimed, *if strenuously urged by Mr. Liston*, may not be extended to three years. The secretary is clearly of opinion, that it is better to have no article, and to meet all consequences, than not to enumerate merchant vessels, on the high seas, among the things not to be forcibly entered in search of deserters.

All which is respectfully submitted.

(Signed)

BEN. STODDERT.

Navy Department, April 23, 1800.

The attorney general of the United States to the president.

Philadelphia, February 26, 1800.

SIR,

IN obedience to your direction, to report my opinion upon the matters contained in the two letters of his Britannic majesty's minister to the secretary of state, dated 2d and 4th instant, the following is respectfully submitted to your consideration.

In the first mentioned letter, a claim is made, by the express order of his Britannic majesty, that three American merchant vessels, namely, the brigantine *Experience*, the ship *Lucy*, and the brigantine *Fair Columbian*, which had been stopped and detained upon the high sea by several British ships of war under a suspicion of having enemies' property on board, and afterwards taken out of the hands of the prize masters, the two first by force, and the last without force, and brought into the United States, should be delivered up to the minister, together with the British seamen and deserters who assisted in those rescues, that they may be sent by him to some one of the British colonies, to be there dealt with according to law. This claim is to be considered as it relates to the American ships, and as it relates to the British seamen.

THE AMERICAN SHIPS.

No stipulation in the treaties between the two nations authorizes the demand for restitution of the American ships. It is therefore to be decided by the practice of friendly nations, which, upon this subject, is the only law.

It is not denied that a belligerent has a right to stop a neutral ship on the high sea suspected to have on board either contraband merchandise, destined to an enemy's port, or enemies' goods, and a right to send such neutral ship to a competent court for examina-

tion and trial : and it is equally true that this right is recognized in the president's instructions to the American ships of war. But while the right of searching neutral ships is acknowledged, it is not acknowledged that the sovereign of the neutral nation is under any obligation, by active measures, to aid and assist the sovereign of the belligerent nation in the exercise of this right. It is a right derived from war, which the belligerent nation is suffered to exercise in consequence of its superior force, upon condition that reasonable satisfaction be made, in all cases of unjust detention, to the neutral ship ; and all that is expected of the sovereign of the neutral nation is to remain passive.

The practice of searching and detaining neutral ships being grounded on the right which one enemy has of injuring and weakening the other, the neutral nation permits her merchant ships, under certain circumstances, to be stopped, treated and held as an enemy by the belligerent, but the belligerent in so doing must depend on his own strength and means, and may not call upon the sovereign of the neutral to aid him in enforcing the rights of war against his own neutral subjects, in those cases where no positive stipulations have been made by treaty. Hence arises the practice of putting on board a neutral ship, when detained and sent for adjudication, a prize master and a sufficient number of men for carrying her into port against the will of the neutrals.

That a neutral nation should be required to exert its power in aid of the right of detaining and searching its own ships, which belligerents are allowed to exercise, is believed to be without precedent. If ever a restitution of neutral ships, detained and rescued under similar circumstances, has been claimed by the sovereign of a belligerent nation from the government of the neutral nation, the case is unknown to me. Such a claim is believed never to have been made, or if made, never granted.

Whatever right the British captors have (if any they have) to the possession of the American ships, is of a nature cognizable before the tribunals of justice, which are open to hear their complaints.

For these reasons, the president is advised to abstain from any act for the restitution of the ships, and that the British minister be informed that this part of the claim cannot be complied with.

THE BRITISH SEAMEN.

In demanding the British seamen who were brought in the repossessed vessels into the United States, I see nothing improper or unreasonable. These may be apprehended by warrants, to be issued by any justice of the peace, upon due proof, in those states where the state laws have so provided ; and being apprehended, may be delivered to the master, or other person duly authorized to receive them. The act of congress concerning seamen is believed to be confined to American seamen only, and consequently will afford no aid or remedy in the present case : and the remedy under the state laws may not be always found to answer the purpose. The claim of the British seamen in the present instance being reasonable, the minister may be answered, that every assistance shall be given for the recovery of them which the laws of this country admit and direct.

It certainly is an object of particular concern to the British nation, to come to an agreement with the United States relative to deserters from the sea service, and it is not less interesting to the United States to come to an agreement with Great Britain relative to the impressment of American seamen. The project of an article relative to deserters, as proposed by Mr. Liston, so far as I understand it, appears to be reasonable : But the 7th clause of that project is so expressed as not to be certainly understood by me, and will require to be otherwise expressed that its mean-

ing may not be misapprehended. If this article is associated with another concerning the impressment of American seamen in terms satisfactory to our government, I think it will be highly advisable to agree upon such stipulations. The one will be very agreeable to the British, and the other to the American nation, and especially at a time when the sensibility of the two nations seems to be a little excited upon those subjects. A proposal of this kind I think should be made without delay to the British minister here.

I am, &c. &c. &c.

(Signed)

CHARLES LEE.

To John Adams, president of the U. S.

The attorney general having read and considered the letter of the secretary of state and the project of an article drawn by the secretary of the treasury on the subject of deserters, which are proposed to be sent to the British minister here, expresses his entire approbation of the same.

April 30, 1800.

Extract of a letter from John Marshall, esquire, secretary of state, to Rufus King, minister plenipotentiary of the United States at London, dated

“ DEPARTMENT OF STATE,

Sept. 20, 1800.

“ THE impressment of our seamen is an injury of very serious magnitude, which deeply affects the feelings and the honor of the nation.

“ This valuable class of men is composed of natives and foreigners who engage voluntarily in our service.

“ No right has been asserted to impress the natives of America. Yet they are impressed, they are dragged on board British ships of war, with the evidence of citizenship in their hands, and forced by violence there to serve, until conclusive testimonials of their birth can be obtained. These must most generally be sought for on this side the Atlantic. In the mean time acknowledged violence is practised on a free citizen of the United States, by compelling him to engage, and to continue in foreign service. Although the lords of the admiralty uniformly direct their discharge on the production of this testimony, yet many must perish unrelieved, and all are detained a considerable time in lawless and injurious confinement.

“ It is the duty as well as the right of a friendly nation, to require that measures be taken by the British government to prevent the continued repetition of such violence by its agents. This can only be done by punishing and frowning on those who perpetrate it. The mere release of the injured, after a long course of service and of suffering, is no compensation for the past, and no security for the future. It is impossible not to believe, that the decisive interference of the government in this respect, would prevent a practice, the continuance of which must inevitably produce discord between two nations which ought to be the friends of each other.

“ Those seamen who, born in a foreign country, have been adopted by this, were either the subjects of Britain or some other power.

“ The right to impress those who were British subjects has been asserted, and the right to impress those of every other nation has not been disclaimed.

“ Neither the one practice nor the other can be justified.

“ With the naturalization of foreigners, no other nation can interfere further than the rights of that other are affected. The rights of Britain are certainly not affected by the naturalization of other than British subjects. Consequently those persons who, according to our laws, are citizens, must be so considered by Britain, and by every other power not having a conflicting claim to the person.

“ The United States therefore require positively, that their seamen who are not British subjects, whether born in America or elsewhere, shall be exempt from impressments.

“ The case of British subjects, whether naturalized or not, is more questionable ; but the right even to impress them is denied. The practice of the British government itself, may certainly in a controversy, with that government, be relied on. The privileges it claims and exercises ought to be ceded to others. To deny this would be to deny the equality of nations, and to make it a question of power and not of right.

“ If the practice of the British government may be quoted, that practice is to maintain and defend in their sea service all those, of any nation, who have voluntarily engaged in it, or who, according to their laws, have become British subjects.

“ Alien seamen, not British subjects, engaged in our merchant service, ought to be equally exempt with citizens from impressments : we have a right to engage them, and have a right to and an interest in their persons to the extent of the service contracted to be performed. Britain has no pretext of right to their persons or to their service. To tear them, then, from our possession, is at the same time an insult and an injury. It is an act of violence for which there exists no paliative.

“ We know well that the difficulty of distinguishing between native Americans and British subjects has been used, with respect to natives, as an apology

for the injuries complained of. It is not pretended that this apology can be extended to the case of foreigners, and even with respect to natives we doubt the existence of the difficulty alleged. We know well that among that class of people who are seamen, we can readily distinguish between a native American and a person raised to manhood in Great Britain or Ireland ; and we do not perceive any reason why the capacity of making this distinction should not be possessed in the same degree by one nation as by the other.

“ If, therefore, no regulation can be formed which shall effectually secure all seamen on board American merchantmen, we have a right to expect from the justice of the British government, from its regard for the friendship of the United States and its own honor, that it will manifest the sincerity of its wishes to repress this offence, by punishing those who commit it.

“ We hope, however, that an agreement may be entered into satisfactory and beneficial to both parties. The article which appears to have been transmitted by my predecessor, while it satisfies this country, will probably restore to the naval service of Britain a greater number of seamen than will be lost by it. Should we even be mistaken in this calculation, yet the difference cannot be put in competition with the mischief which may result from the irritation justly excited, by this practice, throughout the United States. The extent and the justice of the resentments it produces, may be estimated, in Britain, by inquiring what impressions would be made on them by similar conduct on the part of this government.

“ Should we impress from the merchant service of Britain, not only Americans but foreigners, and even British subjects, how long would such a course of injury unredressed be permitted to pass unrevengeed ? How long would the government be content with unsuccessful remonstrance and unavailing memorials ? I believe, sir, that only the most prompt correction of,

compensation for, the abuse, would be admitted as satisfaction in such a case.

“ If the principles of this government forbid it to retaliate by impressments, there is yet another mode which might be resorted to. We might authorize our ships of war, though not to impress, yet to recruit sailors on board British merchantmen. Such are the inducements to enter into our naval service that we believe even this practice would very seriously affect the navigation of Britain. How, sir, would it be received by the British nation ?

“ Is it not more adviseable to desist from, and to take effectual measures to prevent, an acknowledged wrong, than by perseverance in that wrong to excite against themselves the well founded resentments of America, and force our government into measures which may very possibly terminate in an open rupture.”



No. 2.

Extract of a letter from Thomas Pinckney, esquire, to the secretary of state, dated

LONDON, January 3, 1793.

“ I have only time to say, by the present opportunity, that their contents shall be duly attended to. I have strongly urged the adoption of equitable regulations concerning seamen, and from a conference with lord Grenville this day, I have greater hope of a favorable termination of this negotiation than I hitherto entertained. My expectations on this head are, however, only founded on what lord Grenville declares to be his own ideas of the subject at present ; but as this business particularly concerns another department, nothing conclusive can be relied on from a declaration thus expressly confined.”

Extract of a letter from Thomas Pinckney, esquire, to the secretary of state, dated

“ LONDON, March 13, 1793.

“ OUR trade continues subject to great inconvenience, both from our seamen being impressed from the idea of their being British subjects, and from their entering voluntarily on board of the king's ships, tempted by the present high bounties. I have had frequent conversations on this subject with lord Grenville, who always expresses himself to be sensible of the inconvenience to which we are subjected, and desirous to apply a remedy ; but still nothing decisive is done. Our consuls are permitted to protect from impressment such of our seamen as are natives of America, but no others ; and the difficulty of determining by agreement who besides natives are to be considered as citizens of the United States, will, I fear, during the present generation at least, remain an obstacle to every other plan than that of letting the vessel protect a given number of men, according to her tonnage. I insist upon the terms of our act of congress as the rule of discrimination, and shew that in point of time it accords with an act of their own relating to seamen. I send herewith a transcript of a representation I made on the subject of British officers detaining deserters from our vessels, under pretence of their being Englishmen, and extorting the payment of their wages : on this last subject a question is now depending in the court of admiralty ; the former remains without an answer from the lords commissioners of that department. Lord Grenville having said that he wished me to have some conversation with Mr. Bond, on account of his being particularly well acquainted with this subject, I told his lordship I had no objection to conversing with any person appointed by him on this subject. In a few days I received the enclosed note from Mr. Bond, to which I sent the answer annexed, in order to produce an explanation,

whereby neither more nor less than the proper degree of importance might be attached to the conference. Mr. Bond came: He said he had no commission to treat on the subject; we therefore agreed that it was to be considered altogether as an informal conversation. We discoursed at length upon the subject, but I do not find that we are nearer coming to a conclusion on the business than we were before. He appeared not to be prepared for the extent of the reciprocity which I contended should form the basis and pervade the whole of the transaction; for when he urged the point of our seamen, or at least their captain in their behalf, being furnished with testimonials of their being Americans before they left our ports, I told him the inconveniences arising from this procedure would be equally felt by both nations; for that we should expect their seamen to be furnished with similar testimonials when they came to our ports to those they expected our mariners would bring to theirs: he asked in what instance it would become necessary, (alluding, I presume, to our not being in the habit of impressing;) I answered, that unless we could come to some accommodation which might insure our seamen against this oppression, measures would be taken to cause the inconvenience to be equally felt on both sides. I have not since seen Mr. Bond, but find he is ordered out to America with the title of consul general for the middle and southern states."

Extract of a note from Mr. Jay, envoy extraordinary and minister plenipotentiary of the United States at London, to lord Grenville, secretary of foreign affairs, dated

" LONDON, July 30, 1794.

" The undersigned finds it also to be his duty to represent, that the irregularities before mentioned,

extended not only to the capture and condemnation of American vessels and property, and to unusual personal severities, but even to the impressment of American citizens, to serve on board of armed vessels. He forbears to dwell on the *injuries* done to these unfortunate individuals, or on the *emotions* which they must naturally excite, either in the breasts of the nation to whom they belong, or of the just and humane of every country. His reliance on the justice and benevolence of his majesty leads him to indulge a pleasing expectation, that orders will be given, that Americans so circumstanced be immediately liberated, and that persons honored with his majesty's commissions do in future abstain from similar violences.

“It is with cordial satisfaction that the undersigned reflects on the impressions which such equitable and conciliatory measures would make on the minds of the United States, and how naturally they would inspire and cherish those sentiments and dispositions which never fail to preserve as well as to produce respect, esteem and friendship.”



Extract of a note from Mr. King, minister plenipotentiary of the United States at London, to lord Grenville, dated

“LONDON, Great Cumberland Place,

“November 30, 1796.

“In your lordship's letter of the 21st of September, in answer to my application for the discharge of Maxwell, an American citizen, impressed and detained on board his majesty's ship Sandwich, the reason assigned against his discharge is “that he is married and settled at Bristol;” and I understand that the orders of the lords commissioners of the admiralty

for the discharge of American seamen usually contain a proviso, that the discharge is not to operate in favor of any person who has entered on board of any of his majesty's ships, or who is married or settled within any of his majesty's dominions. Without admitting, or contesting, on this occasion, the rule of English law, that a subject cannot divest himself of his natural allegiance, I take the liberty to request your lordship's attention to the diversity of practice, so much to the disadvantage of the American citizens, that prevails in the application of this rule.

“ If Great Britain requires the acquiescence of foreign nations in this law, so far as regards the requisition of her subjects married and settled abroad, or voluntarily engaged in foreign service, is she not bound to observe it in like manner herself, in respect to the subjects of foreign powers, under similar circumstances, in her service or within her dominions? If to the demand of a foreigner in her service by the nation to which he belongs, Great Britain answers, that such foreigner cannot be delivered, because he has voluntarily engaged to serve his majesty, or is married or settled within his majesty's dominions, is she not bound by her own principles to admit the validity of the same answer from such foreign nation, when she requires the surrender of British subjects found in a similar predicament in the service or within the territory of such foreign nation? Justice, which is always impartial, furnishes the proper answer to these questions.

“ Admitting, then, that the voluntary contract of an American citizen to serve on board a British ship, or the marriage or settlement of such citizen within his majesty's dominions, is the foundation of a right in his majesty's government to refuse the requisition of the United States of America, that such citizen should be discharged from his majesty's service, do we not thereby establish a principle that at once condemns and puts an end to the practice of his majesty's

naval officers, in entering American ships, in search of and for the purpose of impressing British seamen, since all seamen found on board such ships are there of choice and by voluntary contract to serve in the American employ ?

“ But if neither of these circumstances can be considered as justly giving a right to his majesty’s government to refuse the discharge of American citizens, does it not result that the usual proviso connected with the orders for the discharge of such citizens, and which is assigned as a reason against the discharge of John Maxwell, is without any just foundation, and consequently operates to the disadvantage and injury of the American citizens.



*Extract of a letter from Rufus King, esquire,
to the secretary of state, dated*

“ LONDON, April 13, 1797.

“ SEAMEN.

“ IT was before my arrival that lord Grenville had expressed to Mr. Pinckney a dissatisfaction with the practice of granting protections to American seamen by our consuls.

“ Before I received your opinion on this subject, lord Grenville had written me a letter, in which this branch of the consular power is denied, and notice given to us that the practice must be discontinued. A copy of this letter, and of mine transmitting it to our several consuls, I had the honor to send you with my letter of the 10th of December. Previous to the communication of this resolution of the British government, it had been notified to Mr. Pinckney, that all applications for the discharge of American seamen impressed into the British service, must in future

come through the American minister, instead of coming from the American consuls, as had been customary. One consequence of this regulation has been, that the subject in all its details has come under my observation, and its importance, I confess, is much greater than I had supposed it. Instead of a few, and those in many instances equivocal cases, I have, since the month of July past, made application for the discharge from British men of war of 271 seamen, who, stating themselves to be Americans, have claimed my interference : Of this number 86 have been ordered by the admiralty to be discharged ; 37 more have been detained as British subjects, or as American volunteers, or for want of proof that they are Americans ; and to my applications for the discharge of the remaining 148, I have received no answer ; the ships on board of which these seamen were detained having, in many instances, sailed before an examination was made in consequence of my applications.

“ It is certain that some of those who have applied to me are not American citizens, but the exceptions are, in my opinion, few, and the evidence, exclusive of certificates, has been such as, in most cases, to satisfy me, that the applicants were real Americans, who have been forced into the British service, and who, with singular constancy, have generally persevered in refusing pay and bounty, though in some instances they have been in service more than two years. As the applications for my aid seemed to increase, after the suspension of the consular power to grant protections (owing to the exposed situation of our seamen in consequence of the denial of this power,) I judged it advisable, though I saw little prospect of any permanent agreement, to attempt to obtain the consent of this government, that, under certain regulations, our consuls should again be authorized to grant certificates of citizenship to our seamen. My letter to Lord Grenville and his answer you have enclosed.

“ I likewise send you the copy of another letter, to

which I have received no answer, that I wrote to lord Grenville in order to expose the inconsistency with the laws and principles of British allegiance of a rule by which acknowledged Americans are detained in the British service."

[COPY.]

*Extract of a letter from Rufus King, esquire,
minister plenipotentiary of the United States,
to the secretary of state, dated*

"LONDON, March 15, 1799.

"IMPRESSING OF SEAMEN.

"I THEN mentioned our dissatisfaction with the continuation of the practice of taking out of our ships, met on the main ocean, such of their crews as did not possess certificates of American citizenship; denying, as I had often done in former conferences upon the same subject, any right on the part of Great Britain upon which the practice could be founded; and suggesting that our ships of war, by permission of our government, might with equal right pursue the same practice towards their merchantmen.

"That not only seamen who spoke the English language, and who were evidently English or American subjects, but also all Danish, Swedish, and other foreign seamen, who could not receive American protections, were indiscriminately taken from their voluntary service in our neutral employ and forced into the war in the naval service of Great Britain.

"That on this subject we had again and again offered to concur in a convention, which we thought practicable to be formed, and which should settle these questions in a manner that would be safe for England, and satisfactory to us.

“That to decline such convention, and to persist in a practice which we were persuaded could not be vindicated, especially to the extent to which it was carried, seemed less equitable and moderate than we thought we had a right to expect.

“Lord Grenville stated no precise principle upon which he supposed this practice could be justified, and the conversation upon this point, like many others upon the same subject, ended without a prospect of satisfaction. The French and Spaniards, and every other nation, might pursue the same conduct as rightfully as Great Britain does. With respect to foreign seamen in our employ, this government has, if I recollect, yielded the point, though their officers continue the practice. We are assured that all Americans shall be discharged on application for that purpose, and that orders to this effect have been given to their naval commanders; but this is far short of satisfaction—indeed, to acquiesce in it, is to give up the right.”



Extract of a letter from Mr. King to the secretary of state.

“LONDON, February, 25, 1801.

“THE progress which had been made in our negotiation with this government, was such as must have brought it to a speedy conclusion, had not a change taken place in the department of foreign affairs: that the result would, in the main, have been satisfactory, is more than I am authorized to say, though I flattered myself with the hope that it would be so. Lord Hawkesbury assures me that he will give to the several subjects, which have been pretty fully discussed, an early and impartial consideration; and I am in hopes that lord St. Vincent will like.

wise be inclined to attend to our reiterated remonstrances against the impressment of our seamen, and the vexations of our trade.”

*Extract of a letter from Rufus King, esquire,
to the secretary of state.*

“NEW YORK, July 1803.

“SIR,

“I TAKE the liberty to add a few miscellaneous articles, by way of supplement to my last despatch.

“AMERICAN SEAMEN.

“As soon as the war appeared to me unavoidable, I thought it advisable to renew the attempt to form an arrangement with the British government for the protection of our seamen: with this view I had several conferences, both with lord Hawkesbury and Mr. Addington, who avowed a sincere disposition to do whatever might be in their power to prevent the dissatisfaction on this subject, that had so frequently manifested itself during the late war: with very candid professions, I however found several objections, in discussing the project with the first lord of the admiralty. Lord Hawkesbury having promised to sign any agreement upon the subject that I should conclude with lord St. Vincent, I endeavored to qualify and remove the objections he offered to our project, and finally, the day before I left London, lord St. Vincent consented to the following regulations:

“1. No seaman nor seafaring person shall, upon the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the

parties, by the public or private armed ships or men of war belonging to or in the service of the other party : and strict orders shall be given for the due observance of this engagement.

“2. Each party will prohibit its citizens or subjects from clandestinely concealing or carrying away from the territories or colonial possessions of the other, any seaman belonging to such other party.

“3. These regulations shall be in force for five years, and no longer.

“On parting with his lordship, I engaged to draw up, in the form of a convention, and send him these articles in the course of the evening, who promised to forward them, with his approbation, to lord Hawkesbury : I accordingly prepared and sent the draft to his lordship, who sent me a letter in the course of the night, stating that on further reflection he was of opinion, that the narrow seas should be expressly excepted, they having been, as his lordship remarked, immemorially considered to be within the dominion of Great Britain ; that with this correction he had sent the proposed convention to lord Hawkesbury, who, his lordship presumed, would not sign it before he should have consulted the judge of the high court of admiralty, Sir William Scott.

“As I had supposed, from the tenor of my conferences with lord St. Vincent, that the doctrine of the mare clausum would not be revived against us on this occasion, but that England would be content with the limited jurisdiction or dominion over the seas adjacent to her territories, which is assigned by the law of nations to other states ; I was not a little disappointed on receiving this communication ; and after weighing well the nature of the principle and the disadvantages of its admission, I concluded to abandon the negotiation rather than to acquiesce in the doctrine it proposed to establish.

“I regret not to have been able to put this business on a satisfactory footing, knowing, as I do, its

very great importance to both parties ; but I flatter myself that I have not misjudged the interest of our own country, in refusing to sanction a principle that might be productive of more extensive evils than those it was our aim to prevent."